

Notice of Allowability

Application No.

09/627,580

Applicant(s)

WOUDENBERG ET AL.

Examiner

Khatol S Shahnan-Shah

Art Unit

1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendments of 7/14/2003.
2. ☒ The allowed claim(s) is/are 1, 41-64 renumbered 1-25 respectively.
3. ☒ The drawings filed on 28 July 2000 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Attachment to Notice of Allowance

1. Applicants' amendment and response, received 14 July 2003 are acknowledged.

Claim 49 has been amended. New claims 59-64 have been added.

Note: It appears that the amendments and response were misplaced and not matched with the application on a timely fashion. The examiner respectfully apologizes on behalf of this office for the delay.

2. Claims 1 and 41-64 are pending.

3. Applicants' declarations under 37 CFR 1.132 filed 7/14/03 are acknowledged.

The declarations of Kenneth J. Livak and Federico M. Goodsaid under 37 CFR 1.132 filed 7/14/03 are sufficient to overcome the rejection of claims 1 and 41-58 under 35 U.S.C.

103(a) based upon unexpected results provided by the instant claimed invention. The declarations point out the major differences between the claimed invention and the prior art references.

Rejections Withdrawn

4. Rejection of claims 1 and 41-58 under 35 U.S.C. 103(a), made in paragraph 6 of the office action mailed 04/09/2003 is withdrawn in view of applicants' arguments and declarations.

Allowable Subject Matter

5. Claims 1 and 41-64 are allowed. Claims are renumbered 1-25 respectively.

The following is an examiner's statement of reasons for allowance:

The claims are drawn to a device for detecting or quantitating one or more of a plurality of different polynucleotide sequences in a liquid sample comprising a substrate defining a sample distribution net work of (i) sample inlet, (ii) one or more detection chambers and (iii) channel

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means providing dead end fluid connection wherein at least two of said detection chambers each contain a different sequence specific polynucleotide binding polymer for detecting or quantitating different polynucleotides.

The prior art fails to teach such device.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khatol S Shahnian-Shah whose telephone number is (571)-272-0863. The examiner can normally be reached on 7:30am-4 pm.

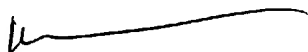
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette F Smith can be reached on (571)-272-0864. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

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Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

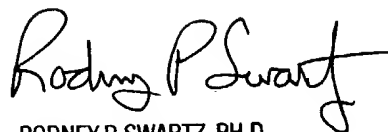


Khatol Shahnan-Shah, BS, Pharm, MS

Biotechnology Patent Examiner

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July 20, 2004



RODNEY P. SWARTZ, PH.D.
PRIMARY EXAMINER